

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

MORGAN FAUSTO-VAZQUEZ, per se and in representation of his minor child JMFG	*	
Plaintiffs	*	CIVIL NO. 14-1189
	*	
Vs.	*	ABOUT:
	*	
HOSPITAL METROPOLITANO DR. PILA, DR. FERNANDO J. RIVERA-MUÑOZ, MRS. RIVERA-MUÑOZ and their Legal Society of Earnings, DRA. GLYSED FLORES DE JESUS, MR. FLORES DE JESUS and their Legal Society of Earnings, CONTINENTAL CASUALTY INSURANCE, CO., d/b/a CNA, SIMED, JOHN DOE, RICHARD ROE, and their respective insurance companies	*	TORTS MEDICAL MALPRACTICE DIVERSITY JURY TRIAL
Defendants	*	

COMPLAINT

TO THE HONORABLE COURT:

Comes plaintiff, through the undersigned attorney, and very respectfully state, allege and
pray:

I. JURISDICTION

1. This Honorable Court has jurisdiction under 28 U.S.C. sec 1332 (a) 1, (c) and (d).
2. Plaintiff and defendants are of diverse citizenship and the award requested exceeds
\$75,000, exclusive of costs and interests. Plaintiff is resident of Florida, USA.
3. It is an action of medical malpractice under the laws of the Commonwealth of Puerto
Rico against all defendants.
4. Article 1802 and 1803 of the Civil Code of Puerto Rico is invoked.

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5. Trial by jury is hereby requested.

II. PARTIES

6. Plaintiff, Morgan Fausto-Vázquez, is single, of legal age, citizens of the United States and resident of 5306 Parker Ave. Apr. 4, West Palm Beach, Florida 33405-0000. Plaintiff was the husband of Sheyla González-Montalvo (deceased), who died on May 13, 2011.

7. Co-plaintiff, JMFV, is a minor child, dependent of the co-plaintiff Morgan Fausto-Vázquez and son of the deceased Sheyla González-Montalvo.

8. Co-defendant, Hospital Metropolitano Dr. Pila, is a private medical institution dedicated to the care of patients where the deceased Sheyla Gonzalez-Montalvo was taken on May 7, 2011.

9. The Hospital Metropolitano Dr. Pila's physical address is Ave. Las Américas # 2445, Ponce, Puerto Rico.

10. Co-defendant Dr. Fernando J. Rivera-Muñoz, is a doctor and attends to patients in co-defendant Hospital Metropolitano Dr. Pila, he was an employee or had privileges in the hospital mentioned at the time of the facts alleged in this complaint. We include as co-defendant his wife and their legal society of earnings.

11. Co-defendant Dra. Glysed Flores de Jesús, is a doctor and attends to patients in Primary Medical Group, she was an employee or had privileges in the hospital mentioned at the time of the facts alleged in this complaint. We include as co-defendant her husband and their legal society of earnings.

12. Co-defendant Dra. Glysed Flores de Jesús attended the deceased Sheyla González-
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Montalvo on May 9th, 2011 at a facility at Primary Medical Group.

13. We include as co-defendant Continental Casualty Co. Insurance d/b/a CNA., the current insurance policy that covers the acts and damages alleged in this complaint.

14. We include as co-defendant SIMED insurance policy at the time of the acts and damages alleged in this complaint.

15. John Doe and Richard Roe are those other doctors, nurses and/or employees of co-defendant Hospital Metropolitano Dr. Pila who where involved with the deceased Sheyla González-Montalvo's treatment, while she was in the co-defendants Hospital Metropolitano Dr. Pila facilities, or at the facility of Primary Medical Group, who's names are unknown to this day, and who are responsible or contributed in any way to the events that give rise to this complaint. We also designate as unknown co-defendants the insurance policies of all of the co-defendants in this complaint.

III. FACTS

16. Sheyla González-Montalvo was a poor young girl, student, participating in the medicaid program under Mi Salud. She was taken by her husband, Morgan Fausto-Vázquez to the Metropolitano Dr. Pila Hospital's Emergency Room on May 7th 2011 at approximately 2:30 p.m. with high fever, vomiting, diarrhea and muscular pain.

17. She was examined by co-defendant Dr. Luis A. Rodríguez, in the emergency room. Laboratory tests where performed and she was erroneously diagnosed with a virus. She was given medication, and released at approximately 11:00 p.m. of that same day. Involved in the diagnostic and treatment also was co-defendant Dr. Fernando J. Rivera-Muñoz. The patient was erroneously diagnosed and erroneously treated.

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18. On May 9th, 2011, co-plaintiff, Morgan Fausto-Vázquez decides to take his wife to the doctor due to the fact that she was not getting any better, and he takes her to Primary Medical Group where she was examined by the Dr. Glysed Flores-de Jesús. The patient requested be given a respiratory therapy and the doctor said it was not necessary because she did not have a pulmonary problem. When asked for further test and treatment the doctor informed co-plaintiff, Morgan Fausto-Vázquez that the test were already done at co-defendant Metropolitano Dr. Pila Hospital. She was erroneously diagnosed with a virus and given medication. She was released at approximately 1:45 p.m. that same day. The patient was erroneously diagnosed and erroneously treated.

19. On May 10th, 2011, she is taken to La Concepción Hospital Emergency Room in San Germán at approximately 2:30p.m. with very low vital signs and was diagnosed with pneumonia, she was not oxygenating. She was admitted to intensive care and laboratory tests where administered. Finally, she dies on May 13th 2011, diagnosed with a sepsis (bacteria).

20. Co-defendants Hospital Metropolitano Dr. Pila, Dr. Luis A. Rodríguez, Dr. Fernando J. Rivera-Muñoz, Dra. Glysed Flores-de Jesús, the physicians, nurses, technicians, and specialized personnel, their employees, supervisors and administration were extremely negligent. The wrong and negligent acts of the physicians, nurses, technicians and specialized personnel, their employees, supervisors and administration of the co-defendants Hospital Metropolitano Dr. Pila, Dr. Luis A. Rodríguez, Dr. Fernando J. Rivera-Muñoz, Dra. Glysed Flores-de Jesús, where the direct cause or directly contributed to the acts alleged in this complaint and caused all the damages to plaintiffs.

21. The co-defendants are included as defendants in sight that medical treatment (including the diagnosis) was not the adequate one. The treatment did not proceed the standards of

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the correct practice of medicine and was realized wrongfully and incorrectly, the proper equipment was not used in this situation. The physicians, nurses, and technicians acted in a extremely negligent way causing or directly contributing to the eventual death of the deceased Sheyla González-Montalvo. This is contrary to the laws of the Commonwealth of Puerto Rico.

22. Sheyla González Montalvo at the moment of her death was a full-time honor student at the Catholic University of Puerto Rico. She was at the end of her third year of her bachelor degree on Natural Science. Sheyla was participating in the medicaid program under Mi Salud. Her treatment was different to the one given to patient with monetary resources or patients with private medical insurance so she was discriminated due to her economic condition (low/poor class). This is contrary to the laws of the Commonwealth of Puerto Rico.

23. Plaintiffs filed complaint before the US District Court in the civil case in April 30, 2012, *Morgan Fausto-Vázquez, et. als. Vs. Hospital Metropolitano Dr. Pila, et. als.*, Civil No. 12-1290 (JAG). A Judgment was entered dismissing all claims without prejudice (besides the EMTALA on March 28, 2013. Timely it was appealed, *Morgan Fausto-Vázquez, et. als. Vs. Hospital Metropolitano Dr. Pila, et. als.*, Case No. 13-1445. A *Notice of Voluntary Dismissal Without Prejudice* was filed in accordance with Federal Rule App. P. 42(b) of the Federal Rules of Civil Procedures. Judgment was entered in accordance on June 14, 2013.

IV. DAMAGES

24. Co-plaintiff Morgan Fausto-Vázquez, suffered and continues suffering to this day severe mental anguish and emotional distress, for the loss of his wife. He is also suffering the emotional distress of their underage son, who suffers the loss of his mother. Damages estimated in

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the amount of \$2,5000,000.00.

25. The co-plaintiff JMFG, suffered and continues suffering to this day severe mental anguish and emotional distress for the loss of his mother. Damages estimated in the amount of \$2,500,000.00.

WHEREFORE, plaintiff respectfully pray from this Honorable Court to render Judgement in favor of plaintiff and to award them a sum no less that five million dollars (\$5,000,000.00). suffered by her because of defendants combined negligence, plus an additional amount for attorney fees and court costs, all to be paid severally by defendants.

RESPECTFULLY SUBMITTED.

In Ponce, Puerto Rico this 10th day of March of 2014.

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